

REMARKS

The Examiner has objected to the Declaration of Inventors filed on April 2, 2004, as defective for lacking the application number and the filing date of its parent application. Applicants hereby submit a Supplemental Declaration for Patent Application, and request the Examiner to withdraw this objection.

Claims 25 and 27-29 stand rejected under 35 USC 103(a) over Okawa in view of O'Donnell. In particular, the Examiner states that the declaration filed on August 12, 2008, has not been given effect because it was signed by less than all of the named inventors. Applicants hereby submit a Declaration under 37 CFR 1.131 (hereinafter "the Declaration") to replace the declaration filed on August 12, 2008. The Declaration, submitted herewith, is signed by all of the named inventors of this application.

By submitting the Declaration, the joint inventors of this application respectfully submit to the Examiner that they were in possession of a method of producing an aliphatic polyester multifilament crimped yarn as now recited in claim 25 prior to April 10, 2002, the publication date of the Okawa reference, as stated in the Declaration. The test reports appended to the Declaration show that the joint inventors had already produced and tested aliphatic multifilament crimped yarns made according to the claimed method prior to April 10, 2002. Thus, this Declaration removes the Okawa reference as a prior art reference against the pending claims of this application. O'Donnell alone fails to disclose or suggest the claimed invention. Accordingly, this obviousness rejection should be withdrawn.

Claims 25 and 27-29 stand rejected under 35 USC 103(a) as obvious over Ochi (U.S. Patent No. 6,761,970 B2) in view of O'Donnell.

As the Examiner has noticed, the Ochi reference and this application are assigned to the same assignee. Applicants hereby submit to the Examiner via the undersigned attorney of record that the subject matter of Ochi's invention was, at the time the invention was made, owned by or

subject to an obligation of assignment to Toray Industries, Inc. of Japan, along with the claimed invention of this application. MPEP 706.02(I)(2)(II). In addition, as requested by the Examiner, applicants hereby submit a terminal disclaimer against the Ochi reference. Thus, under 35 USC 103(c), Ochi does not qualify as an obviousness-type prior art reference for the claims of this application. Since O'Donnell alone fails to disclose or suggest the claimed invention, this obviousness rejection should also be withdrawn.

Further, claims 25 and 27-29 stand rejected on the ground of non-statutory obviousness-type double patenting as obvious over claim 21 of Ochi in view of O'Donnell. As stated above, applicants hereby submit a terminal disclaimer against the Ochi reference. Accordingly, this rejection is now moot.

In view of the above, each of the claims in this application is in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **Docket No. 360842009711**.

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Respectfully submitted,

By *S. Laura Chung*
S. Laura Chung
Registration No.: 59,875
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 400
McLean, Virginia 22102
(703) 760-7312